THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :4288 of 2007

DATED:06-03-2007

BETWEEN:

M/S Sri Surya Chandra Stone Crusher and Chips Suppliers,
Rep., by its Proprietor,
Sri Karri Veerabhadra Varaprasad Reddy,
R/o NRP X Roads, near SBI,
Yeleswaram Village and Mandal,
East Godavari District.

.....
PETITIONER

AND

The Director General of Mines Safety,
Government of India,
Ministry of Labour,
Dhanbagh,
New Delhi & 5 others.

.....RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner; learned Government Pleader for Mines & Geology appearing for the official respondents; and the learned counsel appearing for the 6th respondent.

2. Petitioner seeks a writ of mandamus declaring the action of the 3rd respondent in having appointed Enquiry Officer to determine the schedule area situated in Sy.No.54, to an extent of Ac.3.00 at Yeleswaram Village and Mandal, East Godavari District, which comes under hillock area or plot, on the appeal No.5361/EF/AH/07 filed by the petitioner; and in not staying the proceedings of the

4th respondent till the above appeal is disposed of finally, as illegal, and arbitrary.

3. It is the case of the petitioner that it is the existing lease holder of an extent of Ac.2.20 hectares in Sy.No.54 of Yeleswaram village and mandal, East Godavari District for the past fifteen years and the entire area leased out in favour of the petitioner is situated on the hillock. The 6th respondent applied for grant of lease of 3 hectares and similarly the petitioner also applied for grant of 2 hectares and also one

M/s Srinivasa Crushing Metal Company applied for 0.500 hectares. It is stated that the application of the 6th respondent is dated 02-12-2005; application of the petitioner is dated 15-04-2006; and the application of the said M/s Srinivasa Crushing Metal Company is dated 15-04-2006.

4. Learned counsel appearing for the petitioner submits that as per the existing rules and guidelines issued from time to time the leasehold rights of the quarry situated on the same slope shall be given on lease to the existing lessee and it shall not be given to any third party, but contrary to the existing rules and guidelines the lease in respect of the quarry situated on the same slope has been granted in favour of the 6th respondent vide proceedings No.4061/G1/2006, dated 24-01-2007, of the Deputy Director of Mines and Geology, Kakinada.

5. It is stated that aggrieved by the said order petitioner filed an appeal before the Director of Mines & Geology, Hyderabad on 14-02-2007 along with an application to grant stay, and the appellate authority after hearing both the parties, and on verifying the averments made in the appeal, appointed an Enquiry Officer, and directed him to submit a report and the Enquiry Officer is yet to submit the report. The stay application has been initially posted to 11-03-2007 but in view of the elections the same has been posted to 24-03-2007.

6. Learned counsel appearing for the petitioner submits that the appellate authority after hearing both the counsel and after finding out the factual aspects appointed the Enquiry Officer and therefore, there are good grounds to grant stay. On the other hand, the learned counsel appearing for the 6th respondent submits that pursuant to the said grant of lease the petitioner has entered into an agreement on
25-01-2007 and operated the commencement of lease. It is further stated that the contentions raised in the appeal, and the Writ Petition, and the arguments advanced by
Sri Ch.Seetharam, learned counsel appearing for the petitioner, are incorrect and untrue and both the lands of the lease are situated on different slopes and therefore, there is no danger to operate the leasing operations by the 6th respondent. However, it is stated that the 6th respondent will be at his risk and cost for such operations by the petitioner. As admittedly the appeal is pending before the 3rd respondent, I am of the opinion that any agreement of lease entered in favour of the 6th respondent will be subject to result of the appeal, and the continuance of blasting operations by the 6th respondent will also be at his risk.

7. Accordingly, Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

06th March, 2007.

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